

LUKAS, NACE, GUTIERREZ & SACHS

CHARTERED

1650 TYSONS BOULEVARD, SUITE 1500
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
PAMELA L. GIST
DAVID A. LAFURIA
TODD SLAMOWITZ*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ
—
OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. MCAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS-BROWN*
—
*NOT ADMITTED IN VA

VIA ELECTRONIC FILING

November 26, 2008

Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

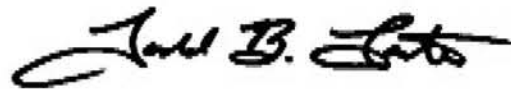
**Re: North Carolina Utilities Commission and North Carolina Rural
Electrification Authority Orders of Concurrence
WC 05-337, CC 96-45**

To Whom It May Concern:

Attached are Orders of Concurrence recently adopted by the North Carolina Utilities Commission (NCUC) and the North Carolina Rural Electrification Authority (NCREA). The Orders provide each agency's concurrence to the FCC's decision to grant U.S. Cellular its proposed redefinition in North Carolina.¹

Please let me know if you have any questions regarding the attached Orders of Concurrence.

Respectfully submitted,



Todd B. Lantor

Enclosures

cc: Jennifer McKee, Wireline Competition Bureau (via e-mail)

¹ See *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Order, 23 F.C.C.R. 8834, 23 F.C.C.R. 9232, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-122 (rel. May 1, 2008), Appendix B, at ¶¶ 28-29.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 133e

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Designation of Carriers Eligible for)	
Universal Service Support—Petition)	
of US Cellular for Commission)	ORDER OF CONCURRENCE
Concurrence in Redefining Certain)	
Service Areas)	

BY THE COMMISSION: On August 5, 2008, North Carolina RSA #4, Inc., North Carolina RSA No. 6, Inc., USCOC North Carolina RSA #7, Inc., North Carolina RSA #9, Inc., Jacksonville Cellular Telephone Company, and Wilmington Cellular Telephone Company (collectively, US Cellular) petitioned the Commission to concur with the Federal Communications Commission's (FCC's) proposal to redefine certain wire centers in the study areas of the following incumbent local exchange companies (ILECs) and Telephone Membership Corporations (TMCs) as a separate study area: Alltel North Carolina-North, Inc., Central Telephone Company-North Carolina, Randolph TMC, Skyline Telephone Membership Corporation, Sprint Mid-Atlantic, and Yadkin Valley Telephone TMC.¹

US Cellular stated that the relevant FCC rules allow the FCC to initiate a proceeding to consider a definition of a service area served by a rural telephone company that is different from the company's existing study area. The FCC did just that with reference to US Cellular and the above-listed ILECs and TMCS. See *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Order*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-122 (rel. May 1, 2008) (*Redefinition Order*). The FCC rules also state that, if the FCC proposes a definition of a service area served by a rural telephone company that is different from the company's study area, the FCC "shall seek the agreement of the state commission." Moreover, the proposed redefinition cannot take effect until both the state commission and the FCC agree upon the definition of a rural service area. Accordingly, the FCC stated in the *Redefinition Order* that it was submitting its redefinition proposals "to the relevant state commissions" and requesting that they examine the proposals and indicate whether they concur. Specifically, in Attachment B, Para. 43 of the *Redefinition Order*, the FCC referred the matter to the "North Carolina Utilities Commission."

¹ On August 27, 2008, the FCC sent a letter to Chairman Finley notifying the Commission that it was asking the Commission to "examine this redefinition based on its unique knowledge of the rural areas in question" and to notify certain persons at the FCC of the Commission's "approval or other action" with respect to this matter.

US Cellular argued that, for the reasons identified by the FCC, the redesignation of the specified wire centers as a separate service area is in the public interest and is consistent with federal law. US Cellular therefore requested that the Commission concur in the redefinition of the service area for US Cellular for the rural areas identified in Appendix B, *Exhibit 29 of the Redesignation Order*.

On August 14, 2008, the Commission issued an Order Seeking Comments and Dismissing Petition as to TMCs. However, the Commission concluded in that Order that it could not rule with respect to the TMCs because it was not the “state commission” pursuant to Sec. 3(41) of the Communications Act with regulatory jurisdiction over TMCs. Rather, it recommended that US Cellular file its petition as to the TMCs with the North Carolina Rural Electrification Authority as the appropriate “state commission” given the absence of Commission jurisdiction. Accordingly, the Commission sought comments only from the ILECs listed in US Cellular’s Petition and reply comments from US Cellular.²

ILEC Comments

On October 9, 2008, a letter on Embarq letterhead was filed which stated in pertinent part: “Central Telephone Company d/b/a Embarq files this letter in response to the petition of Jacksonville Cellular Telephone Company (collectively, US Cellular) to redefine certain wire centers in Embarq’s and other companies’ respective study areas.... Embarq does not oppose US Cellular’s Petition.”

Alltel North Carolina-North, now Windstream North Carolina, Inc., did not file comments.

US Cellular Reply

On October 15, 2008, US Cellular filed comments noting that no party has raised any objection to the Petition; and, therefore, the Commission should grant the requested relief and concur with the FCC’s redefined service area for US Cellular. This matter was fully considered by the FCC, and there was ample opportunity for all interested parties to comment. A grant of the requested relief simply reflects the practical reality that the licensed contours of cellular providers do not often follow the contours of rural telephone company study areas, especially since wireless licensed service area boundaries typically are determined by the FCC and since a reconfiguration would not substantively impact a rural company’s operations or eligibility for universal service benefits. US Cellular has agreed to abide by all requirements relating to its service as an ETC in the proposed study area, including the requirement that it offer service to all consumers in the study area and use available high-cost support for its intended

² It should be noted that the ILEC names or statuses have changed from those cited in the Petition from US Cellular and in the *Redefinition Order*. Central Telephone Company-North Carolina and Sprint Mid-Atlantic are both now part of Embarq, and Alltel North Carolina-North, Inc. is now Windstream North Carolina, Inc.

purpose, i.e., the construction, maintenance and upgrading of facilities to serve the high-cost and rural areas for which the support was intended.

Public Staff Reply

On October 15, 2008, the Public Staff filed comments concluding that, since no comments were filed in opposition to the FCC's proposal to reconfigure the affected ILECs' service areas, the Commission should issue an order concurring in the FCC's proposal.

WHEREUPON, the Commission reaches the following

CONCLUSION

After careful consideration and in accordance with the procedures established by 47 C.F.R. 54.207(d) of the FCC Rules, the Commission concludes that good cause exists to concur with the FCC's proposal for the redefinition of the Central and Alltel service areas for US Cellular, as defined in Appendix B, Exhibit 29 of the *Redefinition Order*, and to so notify appropriate persons at the FCC.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of October, 2008.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Patricia Swenson".

Patricia Swenson, Deputy Clerk

STATE OF NORTH CAROLINA
RURAL ELECTRIFICATION AUTHORITY
RALEIGH

DOCKET NO. TMC-3, SUB 3
DOCKET NO. TMC-4, SUB 1
DOCKET NO. TMC-9, SUB 2

In the Matter of
Petition of U.S. Cellular for Concurrence)
in Redefining Certain Rural Service Areas) ORDER OF CONCURRENCE

BY THE AUTHORITY: On August 19, 2008, North Carolina RSA #4, Inc., North Carolina RSA No. 6, Inc., USCOC North Carolina RSA #7, Inc., North Carolina RSA #9, Inc., Jacksonville Cellular Telephone Company, and Wilmington Cellular Telephone company (collectively, US Cellular) petitioned the Authority pursuant to 47 U.S.C. 214(e)(5), 47 C.F.R. 54.207(d)(2), and the rules and regulations of the Authority to take action, as necessary, to concur with the Federal Communications Commission's (FCC's) proposal to redefine the requested wire centers in the study areas of Randolph Telephone Membership Corporation, Skyline Telephone Membership Corporation, and Yadkin Valley Telephone Membership Corporation (collectively TMCs) as a separate study area. *See In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Order, WC Docket no. 05-337, CC Docket No. 96-45, FCC 08-122 (rel. May 1, 2008) (Redefinition Order).*

On September 10, 2008, the Authority issued an Order Seeking Comments. The Authority sought comments from the TMCs listed in US Cellular's Petition and reply comments from US Cellular.

TMC Comments

The TMCs did not file comments.

US Cellular Reply Comments

On October 30, 2008, US Cellular filed Reply Comments noting that no party had raised any objection to the Petition; and, therefore, the Authority should grant the requested relief and concur with the FCC's Redefinition Order.

CONCLUSION

After careful consideration and in accordance with the procedures established by 47 C.F.R. § 54.207(d) of the FCC Rules, the Authority concludes that good cause exists to concur


with the FCC's Redefinition Order, and to so notify appropriate persons at the FCC.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE AUTHORITY.

This the 17 day of November, 2008.

NORTH CAROLINA
RURAL ELECTRIFICATION AUTHORITY



T. Scott Poole
Administrator

DOCKET NO. TMC-3, SUB 3 – Randolph TMC
DOCKET NO. TMC-4, SUB 1 – Skyline TMC
DOCKET NO. TMC-9, SUB 2 – Yadkin Valley TMC

SERVICE LIST

Randolph TMC
Attn: Steve Cox, General Manager
3733 Old Cox Rd.
Asheboro, NC 27205

Skyline TMC
Attn: Jimmy Blevins, CEO
PO Box 759
West Jefferson, NC 28694

Yadkin Valley TMC
Attn: Jim Crabtree, General Manager
PO Box 368
Yadkinville, NC 27055

Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
Attn: Marcus Trathen
PO Box 1800
Raleigh, NC 27602